

the art, at the time of the invention, to replace the elongated track of Morrison with the elongated track and magnetic slot of Reilly. The Applicants respectfully disagree.

Regarding Morrison, movement of the scale of Morrison may be caused by differential expansion of the scale and the scale track. The scale of Morrison appears to be very long in comparison with its width and thickness. Therefore, holding the scale of Morrison without buckling and bending may be problematic. Morrison discloses using an adhesive to hold the scale in place. While this may work when the scale is in place, when the scale has to be adjusted or removed the scale may be damaged or destroyed. In addition, some force may inevitably be transferred to the scale from its support, as the support expands or contracts with differential expansion, irrespective of the flexibility of the adhesive. Thus, Morrison fails to appreciate the problems overcome by the claimed invention.

Reilly also fails to appreciate the problems overcome by the claimed invention. Moreover, Reilly is not analogous art to the claimed invention, as it is entitled "measuring gage" and refers to a completely different technical discipline. Reilly is concerned with craftwork, whereas the claimed invention concerns precision measurement. As such, Reilly fails to teach or suggest any techniques that are applicable to metrological devices, such as the claimed invention and therefore one of ordinary skill in the art would not look to Reilly when considering the problems overcome by the claimed invention.

The Abstract of Reilly states "the body includes a notched land area for nesting a ruler which is locked in by rotatable stops to restrict ruler movement." Thus, Reilly teaches that a short strong ruler can be held securely in place by mechanical locks 64 and 66. Reilly also teaches, at the last sentence of the Abstract, that the magnetic strip merely retains the ruler in its area when the gage body is in a vertical position and unsecured by the cam locks. Thus, there is no suggestion in Reilly that its magnetic strip holds the scale while the device is in general use. Conversely, Reilly states "when the ruler is properly positioned it is held in

place by tightening these locking cams against it. There is sufficient number of locking cams to hold the ruler in place." See col. 4, lines 2-5. Moreover, the type of "ruler" contemplated by Reilly is one that is clamped from the side to hold it in place. In the claimed invention and in fine scales used for metrology, this cannot be done. Thus, Reilly also fails to teach or suggest that magnetism can be used to hold the scale to the track while the device is in use, as does the claimed invention. As such, one of ordinary skill in the art would not be motivated to combine the teachings of Morrison and Reilly to arrive at the claimed invention. Withdrawal of the rejection of independent claims 19 and 27 is respectfully requested.

Claims 20-26 and 28 are dependent on allowable claims 19 and 27 respectively and are therefore allowable for at least the reasons discussed above, as well as for the additional features recited therein. Withdrawal of the rejection of claims 20-26 and 28 is respectfully requested.

The Office Action rejects claims 19-30 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,511,321 to Nelle in view of Reilly. This rejection is respectfully traversed.

The Office Action admits that Nelle fails to disclose magnetic material disposed in the channel for magnetically attracting the scale, ferrite rubber material, the scale being magnetic or magnetisable, the track made of aluminum and the track made of magnetic ferrite rubber, as does the claimed invention. However, the Office Action asserts that Reilly makes up for the above deficiencies. The Applicants respectfully disagree.

For the reasons discussed above regarding Reilly, it is submitted that one of ordinary skill in the art would not have been motivated to combine the teachings of Reilly with the teachings of Nelle to arrive at the claimed invention. Moreover, neither Nelle nor Reilly disclose the feature of holding the scale in place during its use by means of magnetism. As one of ordinary skill in the art would not be motivated to combine the teachings of Nelle and

Reilly to arrive at the claimed invention, they cannot be used to sustain a rejection under 35 U.S.C. §103(a). Withdrawal of the rejection of independent claims 19 and 27 is respectfully requested.

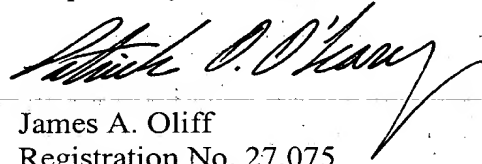
Claims 20-26 and 28-30 are dependent on allowable claims 19 and 27 respectively, and are therefore allowable for at least the reasons discussed above, as well as for the additional features recited therein. Withdrawal of the rejection of claims 20-26 and 28-30 is respectfully requested.

II. CONCLUSION

In view of the foregoing, reconsideration of the application is requested. It is submitted that the claims as presented herein patentably distinguish over the applied references. Accordingly, allowance of claims 19-30 is respectfully solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Patrick O. O'Leary
Registration No. 51,035

JAO:POO/srh

Attachment:
Appendix

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

**DEPOSIT ACCOUNT USE
AUTHORIZATION**

Please grant any extension
necessary for entry;
Charge any fee due to our
Deposit Account No. 15-0461

APPENDIX

Changes to Claims:

The following is a marked-up version of the amended claims:

19. (Amended) A measurement apparatus comprising:
a measurement scale;
a readhead relatively movable along the scale for reading the scale; and
an elongate track for holding the measurement scale, the track having a
channel wherein the track attracts magnetically the scale to the channel for holding the scale
to the track in use.

27. (Amended) A measurement apparatus comprising a measurement scale for
use with a scale readhead; and an elongate track that holds the scale, the elongate track
having a channel wherein the elongate track attracts magnetically the measurement scale to
the channel for holding the scale to the track in use.